

LYNCHBURG CITY COUNCIL
Agenda Item Summary

MEETING DATE: **September 14, 2004**

AGENDA ITEM NO.: 22

CONSENT:

REGULAR: **X**

CLOSED SESSION:
(Confidential)

ACTION: **X**

INFORMATION:

ITEM TITLE: **Appointment, Duties And Powers Of Local Fire Marshal**

RECOMMENDATION: Adoption of the attached ordinance

SUMMARY: Local fire marshals perform two different functions: (i) the traditional duties of preserving order at fires and investigating the causes of fires and explosions and (ii) the more recent duties of enforcing the provisions of the Statewide Fire Prevention Code. Sections 19-42 through 19-44 of the City Code authorize the appointment of a local fire marshal for the purpose of enforcing the Statewide Fire Prevention Code and spell out the fire marshal's duties and powers in regard to the enforcement of the Fire Prevention Code. However, there is nothing in the City Code authorizing the appointment of a fire marshal for the purpose of preserving order at fires and investigating the causes of fires and explosions within the City and spelling out the fire marshal's powers when performing such duties. In order that all of the fire marshal's duties will be set forth in the City Code it is recommended that the City Code be amended to include a section authorizing the appointment of a fire marshal for the purpose of the preserving order at fires and investigating the causes of fires and explosions within the City and giving the fire marshal certain powers in the performance of such duties.

PRIOR ACTION(S): None

FISCAL IMPACT: None

CONTACT(S): Walter C. Erwin, 455-3973

ATTACHMENT(S): Attached Ordinance

REVIEWED BY: lkp

ORDINANCE

AN ORDINANCE TO AMEND AND REENACT THE CODE OF THE CITY OF LYNCHBURG, 1981, BY ADDING THERETO A NEW SECTION NUMBERED, SECTION 19-32, RELATING TO THE APPOINTMENT OF AND THE POWERS AND DUTIES OF THE LYNCHBURG FIRE MARSHAL.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF LYNCHBURG:

1. That the Code of the City of Lynchburg, 1981, be and the same is hereby amended and reenacted by adding thereto Section 19-32, as follows:

Sec. 19-32. Local fire marshal.

The city council shall appoint a fire marshal for the city. The fire marshal shall report to and work under the supervision and control of the chief of the fire department. The chief of the fire department, with the approval of the city manager, shall have the authority to remove the fire marshal for cause. The chief of the fire department, with the approval of the city manager, is authorized to appoint such assistant fire marshals as may be necessary to assist the fire marshal in the performance of his duties. The fire marshal and the assistant fire marshals shall have all of the duties and powers that are set forth in Title 27, Chapter 3, Sections 27-30 through 27-37.1 of the Code of Virginia, 1950, as amended. Such powers and duties shall include but shall not be limited to the following:

(a) The fire marshal and the assistant fire marshals shall make an investigation into the origin and cause of fires and explosions occurring within the city.

(b) In making investigations into the origin and cause of every fire and explosion occurring within the limits of the city, the fire marshal and the assistant fire marshals may issue a summons directed to the sheriff commanding the sheriff to summon witnesses to attend before them at such time and place as they may direct. Witnesses, on whom the summons before mentioned is served, may be compelled by the fire marshal and the assistant fire marshals to attend and give evidence, and shall be liable in like manner as if the summons had been issued by a justice of the peace in a criminal case. They shall be sworn by the fire marshal or the assistant fire marshals before giving evidence, and their evidence shall be reduced to writing by them, or under their direction, and subscribed by them respectively.

(c) The fire marshal and the assistant fire marshals shall have the duties and powers at fires as set forth in Virginia Code Section 27-34, to be present at the fire and advise and act in concert with such police officers as may be present; and, for preserving order at and during the existence of such fire, and for the protection of property, the fire marshal and assistant fire marshals shall have concurrent powers with the police officers, and the chief or other officer in charge, but shall not exercise any authority which will conflict with the powers of any chief or other officer in command of any fire department in the discharge of their special duties as such.

(d) The fire marshal and the assistant fire marshals are authorized to take and preserve any property found at the scene of a fire or explosion during his presence there while in the act of extinguishing such or found later with the consent of the owner or pursuant to Virginia Code Section 27-32.1, which property indicates the fire or explosion was intentionally caused.

(e) The fire marshal and the assistant fire marshals shall have the authority to arrest, to procure and serve warrants of arrest and to issue summons in the manner authorized by general law for violation of fire prevention and fire safety laws and related ordinances.

(f) The fire marshal and the assistant fire marshals, shall have the same police powers as a sheriff, police officer or law-enforcement officer. The investigation and prosecution of all offenses involving hazardous materials, fires, fire bombings, bombings, attempts or threats to commit such offenses, false alarms relating to such offenses, possession and manufacture of explosive devices, substances and fire bombs shall be the responsibility of the fire marshal and the assistant fire marshals.

(g) The fire marshal and the assistant fire marshals shall have the right to enter upon any property from which a release of any hazardous material, hazardous waste, or regulated substance, as defined in Virginia Code Section 10.1-1400 or Virginia Code section 62.1-44.34:8 has occurred, or is reasonably suspected to have occurred, and which has entered into the ground water, surface water or soils of the city in order to investigate the extent and cause of any such release.

2. That this ordinance shall become effective upon its adoption.

Adopted:

Certified:

Clerk of Council

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